



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,882	04/05/2002	Tohru Hirayama	2002-04864	6787

513 7590 02/09/2006

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER

AIRAPETIAN, MILA

ART UNIT	PAPER NUMBER
----------	--------------

3625

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,882

Applicant(s)

HIRAYAMA ET AL.

Examiner

Mila Airapetian

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/18/2005.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's amendment received on 11/18/2005 is acknowledged and entered. The applicant has amended claims 1-22. Currently, claims 1-22 are pending for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5, 6, 7, 9, 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3625

Claims 1-4, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howes (US 2005/0160077) in view if Breitenbach et al. (hereinafter Breitenbach) (US 20020016729).

Claim 1. Howes teaches a paint manufacturing method including:
allowing a paint orderer to input a toning job including the ^{colorimetric} ~~calorimetric~~ data of a reference color with which the color of a paint should be matched through toning data of a type of the paint and a necessary quantity of the paint to a computer terminal (*placing an order for coating in a customer-specified color and quantity*, [0027]);

supplying the toned paint from the toning person to the paint orderer (*delivering of the customer-specified color and quantity of coating to the orderer*, [0025]).

However, Howes does not teach:

selecting a toning person, connecting the computer terminal to a computer of the selected toning person; and transmitting the toning job to the selected toning person so as to give an order for the toning job to the selected toning person; and

allowing the selected toning person to communicate an order-receiving approval of the toning job to a paint orderer and prepare a toned paint matched with the toning job.

Breitenbach teaches a computer implemented method for scheduling events and associated products including:

selecting a toning person, connecting said computer terminal to a computer of the selected toning person [0285]; and

transmitting said toning job to said selected toning person to give an order for said toning job to said toning person [0285];

allowing the selected toning person to communicate an order-receiving approval of the toning job to a paint orderer and prepare a toned paint matched with the toning job [0285].

It would have been obvious to one having ordinary skills in the art at the time the invention was made to modify Howes to include a step of selecting a

2/2/06

Art Unit: 3625

toning person, connecting said computer terminal to a computer of the selected toning person; and transmitting said toning job to said selected toning person to give an order for said toning job to said toning person, as disclosed in Breitenbach, because the stored information on a plurality of service providers, that is toning persons, would allow an improved customer response time, better allocation of resources, and a better economic analysis for staffing and event planning [0002].

Claim 2. Howes teaches inputting a toning class to the computer terminal in said allowing of the paint orderer to input the toning job to the computer terminal (*inputting customer-specified color*, [0027]).

Claim 3. Breitenbach teaches said method wherein said selecting of the toning person includes retrieving order backlogs of a plurality of toning persons by a computer system and selecting a toning person out of the retrieved order backlogs of the plurality of toning persons [0285].

The motivation to combine Howes and Breitenbach teachings would be to improve customer response time, better allocation of resources, and a better economic analysis for staffing and event planning [0002].

Claim 4. These limitations are covered and analyzed in Claim 1.

Claim 5. Howes teaches said method including allowing a prospective toning person to estimate an allowable limit of toning by a designated type of paint by using the computer of the prospective toning person to tone by using a color-matching computation logic about the content of a toning job (page 11, claim 23);

transmitting data of an allowable limit of toning by the designated type of paint to a computer terminal of a paint orderer when it is difficult to prepare a toned paint by the toning job [0028]; and

receiving an approval of a change to a toning job within the allowable limit of toning from the paint orderer after the toning job is transmitted to the selected toning person in said selecting of the toning person [0052],

Art Unit: 3625

wherein the selected toning person prepares a toned paint corresponding to the approval of the change to the toning job [0052].

Claim 6. Howes teaches said method further comprising allowing a painter to prepare a test paint plate by painting the plate with the toned paint supplied in said supplying of the toned paint, obtain colorimetric data of the test paint plate, compare the colorimetric data of the test paint plate with a reference color, and determine whether a criterion of the toning end point is satisfied [0083].

Claim 7. Howes teaches said method wherein an operation of the computer displaying a painting condition which may satisfy the criterion of the toning end point when the criterion of the toning end point is not satisfied in said allowing of the painter to prepare the test paint and allowing a painter to prepare a test paint plate again by test painting the plate with a toned paint in said allowing of the painter to prepare the test paint under said-the painting condition, compare the colorimetric data of the test paint plate with a reference color by use of a computer, and determine whether the criterion of the toning end point is satisfied until the criterion of the toning end point is satisfied is repeated [0027].

Claim 8. Howes teaches said method wherein a computer determines that the criterion of the toning end point is satisfied by comparing the colorimetric data of a test paint plate with a reference color and a painter then performs full-scale painting when the criterion of the toning end point is satisfied [0027].

Claim 9. Howes teaches a paint manufacturing method including:

allowing a paint orderer to input colorimetric data of a reference color with which the color of a paint should be matched through toning a type of the paint and a necessary quantity of the paint to a computer terminal, connect the computer terminal to a server computer of an agent, and enter a toning job (*placing an order for coating in a customer-specified color and quantity over the computer network*, [0027]);

Art Unit: 3625

allowing the agent to obtain an order receiving approval from the selected toning person and transmit an order receiving decision to a computer terminal of the paint orderer (*producing in a single batch a customer-specified color and quantity of liquid coating* [0027]);

preparing a toned paint corresponding to the content of the toning job (*delivering of the customer-specified color and quantity of coating to the orderer* [0025]; *delivering said paint indicates preparing said delivered paint indicates preparing the order*);

supplying the toned paint to the paint orderer (*delivering of the customer-specified color and quantity of liquid coating* [0025]).

However, Howes does not teach allowing the agent to select a toning person and give an order for the toning job to the selected toning person, and that said toned paint is prepared by the toning person.

Breitenbach teaches a computer implemented method for scheduling events and associated products including:

allowing the agent to select a toning person and give an order for the toning job to the selected toning person [0285].

It would have been obvious to one having ordinary skills in the art at the time the invention was made to modify Howes to include allowing the agent to select a toning person and give an order for the toning job to the selected toning person, as disclosed in Breitenbach, because the stored information on a plurality of service providers, that is toning persons, would allow an improved customer response time, better allocation of resources, and a better economic analysis for staffing and event planning [0002].

Claim 10. Howes teaches said method wherein the paint orderer is a repair painter [0032].

Claim 11. Howes teaches said method further including inputting a toning class is input to the computer terminal (*placing an order for coating in a customer-specified color and quantity, [0027]*).

Art Unit: 3625

Claim 12 Breitenbach teaches said method wherein said allowing of the agent to select the toning person includes retrieving delivery states between toning persons and a paint orderer and the order backlog of the toning person by use of a computer system, selecting a toning person in accordance with the retrieved delivery states, and giving an order for a toning job to the selected toning person [0285].

The motivation to combine Howes and Breitenbach teachings would be would to allow an improved customer response time, better allocation of resources, and a better economic analysis for staffing and event planning [0002].

Claim 13. Breitenbach teaches said method wherein said allowing of the agent to select the toning persons includes extending offers to perform a toning job to a plurality of toning persons by use of a computer system, accepting tenders through the computer system, and selecting the toning person in accordance with a tender result [0285].

The motivation to combine Howes and Breitenbach teachings would be would to allow an improved customer response time, better allocation of resources, and a better economic analysis for staffing and event planning [0002].

Claim 14. Howes teaches said method including preparing the toned paint includes determining whether a measured value of the color of a toned paint plate is present in a color-end-point allowable range when preparing a toned paint and completing toning when the measured value is present in the color-end-point allowable range [0027].

Claim 15. Howes teaches said method further including allowing an agent to estimate an allowable limit of toning by a designated type of paint by using the computer to tone by using a color matching computation logic about the content of a toning job, and transmit data of the allowable limit of toning by the designated type of paint to a computer terminal of a paint orderer and accepting the approval of change to a toning job within the allowable limit of toning from the paint orderer after the toning job is entered in said allowing of the paint orderers

Art Unit: 3625

wherein the agent selects a toning person and gives an order for the change-approved toning job to the selected toning person 0027].

Claim 16. Breitenbach teaches said method wherein said allowing of the agent to select the toning person includes transmitting the computer toning data estimating an allowable limit of toning by a designated type of paint to the selected toning person when giving an order for a change-approved toning job to the selected toning person [0285].

The motivation to combine Howes and Breitenbach teachings would be would to allow an improved customer response time, better allocation of resources, and a better economic analysis for staffing and event planning [0002].

Claim 17. Howews teaches said method including allowing a painter to prepare a test paint plate by test-painting the plate with the toned paint supplied in said supplying of the toned paint, obtain colorimetric data of the test paint plate, compare the colorimetric data of the test paint plate with a reference color by use of a computer, and determine whether a criterion of a toning end point is satisfied [0027].

Claim 18. Howes teaches said method wherein an operation of the computer displaying a painting condition which may satisfy the criterion of the toning end point and allowing a painter to prepare a test paint plate by test-painting the plate with a toned paint in the said allowing of the painter to prepare the test paint when the criterion of the toning end point is not satisfied said allowing of the painter to prepare the test paint, compare the colorimetric data of the test paint plate with a reference color by use of the computer, and determine whether the criterion of the toning end point is satisfied is repeated until the criterion of the toning end point is satisfied [0027].

Claim 19. Howes teaches said method including allowing a computer to compare the colorimetric data of a test paint plate with a reference color and determine that the criterion of the toning end point is satisfied and then, allowing a painter to perform full-scale painting [0027].

Claim 20. These limitations are covered and analyzed in claim 9 above.

Art Unit: 3625

Regarding claim 21, Howes teaches a paint manufacturing system including:

2/2/06
a paint-orderer's computer terminal operable to receive an input of a toning job including information about ^{colorimetric} ~~colorimetric~~ data of a reference color with which the color of a paint should be matched through toning a type of the paint and a necessary quantity of the paint and to output the toning job (*electronic interface to place an order for a liquid coating in a customer-specified color and quantity*, [0027]);

an agent's server computer operable to receive and enter the toning job outputted from said paint-orderer's computer, select a toning person out of toning-person data, give an order for the toning job to the selected toning person transmit a decision of the selected toning person accepting the order for the toning job to said paint-orderer's computer terminal (subsystem for receiving orders over the computer network, [0027]); and

a toning-person's computer terminal operable to receive the order for the toning job, and transmit the decision of the selected toning person accepting the order for the toning job to said agent's server computer; wherein said computer terminal, said agent's server computer, and said toning person's computer terminal are connected to each other by a communication line (*electronically receiving and order over a computer network* [0025], *producing in a single batch a customer-specified color and quantity of liquid coating* [0027]).

Claim 22. These limitations are covered and analyzed in claim 21.

Response to Arguments

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new grounds of rejection.

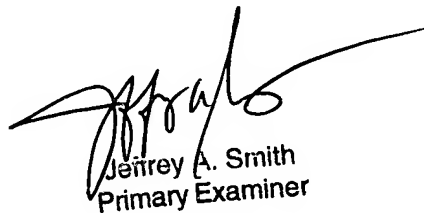
Art Unit: 3625

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mila Airapetian whose telephone number is (571) 272-3202. The examiner can normally be reached on Monday-Friday 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (571) 272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey A. Smith
Primary Examiner

Mila Airapetian

Examiner

Art Unit 3625